



## Town of Seabrook Planning Board Minutes

Tuesday, September 18, 2012  
NOT OFFICIAL UNTIL APPROVED

Members Present: Jason Janvrin, Vice Chair; Dennis Sweeney; Roger Frazee, Aboul Khan, Ex-Officio; Alternate; Francis Chase, Alternate; Paula Wood, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary; Paul Garand, Code Enforcement Officer;

Members Absent; Paul Himmer, Alternate; Donald Hawkins, Chair; Robert Fowler; Michael Lowry, Alternate; Sue Foote, Alternate;

Janvrin opened the meeting, noting that there were no cases on this Agenda.

### **MINUTES OF AUGUST 21, 2012**

<b>MOTION:</b>	<b>Chase</b>	<b>to accept the Minutes of August 21, 2012, as written.</b>
<b>SECOND:</b>	<b>Wood</b>	<b>Approved: Unanimous</b>

### **MINUTES OF SEPTEMBER 04, 2012**

Tabled to the next meeting.

### **CORRESPONDENCE**

Folder circulated.

Janvrin referenced a letter from Thomas O'Hara concerning blade flags that flap in the breeze. O'Hara had asked the Board to rule as to whether these signs are legal. Janvrin cited Section 13.200 of the Zoning Ordinance dealing with prohibited signs e.g. animated, moving, flashing, intensely moving signs, or those making audible sounds, noises or visible matter. He thought that under that description the signs would be moving, and that is why the Building Department cited the restrictions. Janvrin asked for Garand's view. Garand said permitted signs as outlined in the zoning include one pylon, entrance, exit, wall and roof sign. Janvrin noted temporary signs for real estate, contractor and yard sale. Garand said nothing else is permitted; that had always been the interpretation.

Chase asked how this could be enforced, because these type of signs could be seen when driving down the street. Garand said he stops in time after time. He asked the Board to give him the ability to start issuing fines, and thought that would have to be put into the zoning. Khan said that O'Hara was asking the Board to take a position on a regulation in force for many years. It was not fair only for O'Hara to have his argument in front of the Board, or for the Board to take an action at this meeting. Garand said if O'Hara is unhappy with his ruling, he has the right to go to the Zoning Board of Adjustment for an administrative appeal. Khan said that would be an option. Janvrin commented that Garand's ruling is appealable because he is considered as a land use board. Janvrin cautioned against attaching this discussion to any specific lot, as occurred with the recent gas station issue. However, the Board could clarify that these type of signs would be prohibited under the zoning ordinance, because the Planning Board had that authority just as the ZBA would have. He thought that Garand was looking for the Board to rule that these signs are non-compliant and not usable in the town.

Chase thought there would be pros and cons about whether these signs are permissible, but thought that maybe they should be permissible. Janvrin said this is actually a zoning ordinance passed at a Town meeting. The Board could make a recommendation for a change, but it would



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be up to the Town Meeting. He noted that the Board had taken a hard stance on digital signs, only allowing changes once per hour. Garand believed this was addressed in the free-standing signs – one per lot is allowed for advertising the business on the property. Janvrin said these signs move and would thought they would be prohibited under the ordinance. Garand said one pylon sign per lot is allowed. Multiple flags block the road right-of-way, do not meet the six-foot requirement for clearance or the setbacks, and can impair the line of sight for traffic. Garand wanted to speak with Morgan about enabling fines for this type of non-compliance. Janvrin suggested consulting with the Police Department.

Wood said that this question prompted something that had to be heavily discussed, including the fines. Every day there are signs along the road, and Garand contacts the owners. Words don't seem to be doing anything, so maybe there needs to be a little bite. On the other hand it is hard not to advertise a business. She understood the regulations and why the town wants to keep Route 1 nice. But how about those whose business is off Route 1 and there is nothing to say they are there or attract customers. Times are tough. Garand said times are tough for everyone. To bend the regulations just brings more avoidance. This morning he visited a store that had a blinking signs before turning them off at eight o'clock hoping that he did not notice this. People are trying to drum up that extra business. How is that fair to the person that complies with the ordinance. Wood did not mean to bend the rules, but maybe through the proper procedures. Garand said a business on Route 1 is paying the taxes to be there. Someone on a side road pays less. Off-premise directional signs are allowed at the roadway corner and that can help. Janvrin said a tenant on Railroad Avenue is doing this and he has talked with the owner many times.

Garand said that multiple notices of violation don't accomplish much, except to generate a cease and desist for 30 days and then they come into compliance for a few days, and then they start up again. If he had the ability to fine people for a violation a couple of times, they would get the point. Chase asked if this question should come back to the Board for discussion at another time. Janvrin thought that zoning ordinances would be discussed in November, so that the voters could decide at the March 2013 Town Meeting. Khan said if an individual, or a business or land owner had a problem with existing town regulations, they should be on the Planning Board agenda, or that of any other Board. The Board should not take any action just because someone writes a letter. If there are enough reasons to change a regulation and the Board agrees to take a vote, it can go either way. Otherwise he did not think that the board or Morgan should preemptively put anything on the town ballot. Right now there is no problem with the existing law. Janvrin asked Morgan if there was a provision for a petition to make a change, saying that he agreed with Khan in that respect. Frazee asked if there were a handout that would explain to people what is or is not appropriate.

Garand said when he issues a notice of violation, he is specific about the violation and gives them a copy of the sign ordinance. They are fully aware, but are trying to drum up the extra business. A lot of signage is pre-existing and non-conforming; they try to get a little push. Morgan said that O'Hara was actually asking the Board to interpret the ordinance which he thinks that Garand had interpreted incorrectly. The Board could make that interpretation or just file the letter. Janvrin was inclined to agree with Garand. There is a way to petition for a change in the ordinance, or to appeal to the ZBA. He thought the existing ordinance would prohibit that signage. Janvrin asked if Board members had a different opinion. Morgan noted that O'Hara was not asking for the ordinance to be changed. Garand said only the type of sign was being discussed: not a particular lot. He suggested a motion saying that Garand was right or wrong. Janvrin thought the motion should say that the type of sign was non-compliant. Chase asked if this discussion covered small triangular signs strung across a lot.



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Garand said under the ordinance that is advertisement that is not allowed. If there is a grand opening he may not stop it. But after business is established and they keep on using that advertisement it becomes illegal or non-conforming and it would be time to pay a price. Khan requested that the O'Hara letter be read into the record:

"[to] Seabrook Planning Board. Re Blade flags: The Seabrook building Dept. has verbally informed me that Blade signs are prohibited in the town of Seabrook. These flags are and have been in use at Bob's Tattoo, the phone store at Ganz plaza, Phantom Fireworks, Atomic fireworks and Cimarron Apartments. These are just a few of the ones I know of off- hand. I have read Section 13 Signs and cannot find any reference to blade flags. I have included pictures of the flags as well as the town section. I would ask that you make a ruling as to whether these flags are or are not prohibited and if they are what would be the proper procedure to make them an allowed use. I do not use the flags myself, however my tenants do and our small businesses need every advantage to remain in business. Please keep in mind that these businesses represent families of the business owners, the landlord the employees as well as money spent in the town on many levels. Thank you. Thomas O'Hara"

Fraze said to consider that time moves forward, sign design moves forward. What was inappropriate ten years might be different and modern now. A new sign might be appropriate where something else is outdated. Janvrin said that the way the code is written now, it is not allowed. He thought it was not that tough to change a zoning regulation by a citizen petition. Morgan said that O'Hara asked the Board to decide whether blade flags are permissible and, if not, how to change the ordinance. Khan noted that O'Hara said he could not find the reference to what is permissible in the regulations. He wanted to bring the appropriate reference into the motion. Morgan said that Garand defines these signs as free standing under Section 2 of the ordinance, which he did not think O'Hara had looked at.

<b>MOTION:</b>	<b>Wood</b>	<b>to find that blade flags are not permissible in the Town of Seabrook, and that the Code Enforcement Officer's ruling was correct in accordance with Section 2 of the Town of Seabrook Zoning Ordinance.</b>
<b>SECOND:</b>	<b>Janvrin</b>	<b>Approved: Unanimous</b>

Morgan explained that O'Hara could do a citizen petition to change the zoning, or ask for a variance from the Zoning Board of Adjustment. Khan asked if a variance would be just for one business. Morgan confirmed this. Khan said if O'Hara wanted to do this for the whole town, he would have to go to the Town Meeting. Janvrin asked that O'Hara receive a copy of the minutes.

### **Carey & Giampa Renovation – 240 Ocean Boulevard TMS Architects**

Janvrin referenced a letter from TMS Architects. Garand explained that this is Beach property with a proposal to make changes change to a commercial building. Janvrin asked if Garand's view was that it should come before the Planning Board for a full site review. Garand said if the building is being expanded, a full site review is called for. Morgan said the architect's letter describes a small expansion which he did not think warranted the Planning Board's time. Janvrin said 64 square feet would be increased to 130 square feet; a drawing showing the changes was provided. Morgan said that sometimes a change is so small that the Board might waive



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jurisdiction, which the Architect is hoping the Board would do. Garand said changes in lighting and hours of operation would be important. Janvrin said nothing was submitted except for the building layout. Chase asked the purpose for the expansion. Garand said it would be for an addition on the second floor and to relocate a bump on the first floor. Garand said the location is in the dune area; a letter from the Department of Environmental Services would be needed. Janvrin thought this also should go to the Conservation Commission as well. People who would be impacted should have notice. Garand noted that he is not the code enforcement officer for the Beach. Morgan said the question for the Board is whether this proposal needs a full application, or if it wanted to waive jurisdiction. Chase asked for the use of the added space. Garand said this is for an expansion of the business on the first floor. Janvrin noted that the existing stair element would be reduced within the setback. Garand said an exterior stairway in the back of the property would be removed. As this stairway goes to the residential unit on the second floor, Garand was not sure it could be removed. Janvrin asked if there should be a technical review. Garand thought it might not need a technical review, but it should be reviewed to assure it meets the open area and drainage requirements, as well as to look at the parking in front of the building.

Chase asked if the Beach precinct would have nothing to say about this. Morgan said they would still have to deal with the Beach Building Inspector. Wood thought a site plan review was warranted. Khan agreed. Garand asked about the frontage. Janvrin said it was 100 feet on Ocean Boulevard, and 50 feet on Lawrence. Chase wondered why no one represented them at this meeting. Khan felt the same, noting that the Board and secretarial time had already been taken. He wondered why they did not appear to ask for relief. Janvrin agreed with Khan that if someone appeared and could justify a waiver that would be different. Janvrin asked for further discussion; there being none

<b>MOTION:</b>	<b>Wood</b>	<b>to find that the proposed expansion at 240 Ocean Boulevard would require a full site plan review.</b>
<b>SECOND:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

Wood noted that even large developers have come in and talked with the Board to explain their intent. This is smaller scale but it is still taking up the secretary's time etc. Garand said a hearing would allow abutters to see what is being proposed. Khan thought this was similar to the Castaways expansion of the second floor deck. If there is to be an expansion the proposal should be fully submitted to the Board. Had they appeared, the Board could have decided whether to grant relief.

Janvrin called attention to the **copies of the vendor work sheets for 920 Lafayette Road which Tim Johnson had submitted.** This was one stipulation of the approvals for Cases 2012-16E and 2012-21E. He asked Garand for the detail. Garand said they are coming into compliance. It will take a little time, but no discussion was needed at this time.

Janvrin called attention to an **October 18 Conference in Greenland re Municipal Stormwater Systems and the MS-4 forthcoming mandate**



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### **Administrative Appeal to ZBA of Planning Board Decision**

Janvrin called attention to the letter from the law firm of Bernstein Shur withdrawing the administrative appeal of a Planning Board decision in February 2012. Morgan said there had been negotiations among the lawyers since the last meeting. The lawyers for both parties in re Case #2012-18 and the Planning Board's attorney all agreed that the issue should come back to the Planning Board. Janvrin said this may come up at the next meeting for the case. Morgan said in this regard it will expand the discussion relating to the gas station scheduled for October 2, 2012 at 6:30PM in Seabrook Town Hall. The attorneys will be pressing the Board to interpret the zoning ordinance re gas stations, in the manner that was done for O'Hara earlier in this meeting. Morgan said that whether the gas station is even permitted will be contested by both parties. Janvrin thought the process would be similar to that done in February. Morgan thought that this time the abutter and his attorney would attempt to influence the Board. Kravitz commented that coming to terms with how to deal with this question was prompted by the Planning Board Attorney's negotiating with the other attorneys and getting them to agree with his interpretation that the appeal to the Zoning Board of Adjustment was inappropriate because there had been no siteplan before the Board at that time. Janvrin said at this Board's next meeting for this case the discussion will be attached to a site plan for Case #2012-18, and could then be appealable to the ZBA. .

Chase asked if the O'Hara letter should have been addressed further. Morgan said the Board did address this request by finding that the blade flags were not allowed. On October 2 someone would take the position that the gas station in question was not permitted on this site. The Board would listen to the discussion and then make a decision. Kravitz said that the public notice for Case #2012-18 had been posted with an added notation as to the special subject matter. Abutters had also been notified.

Janvrin called attention to **a letter from the Regional Economic Development Center thanking Seabrook for submitting worthy projects.** Janvrin said that Kravitz had been instrumental in bringing these projects to REDC.

### **SECURITY AND EXTENSIONS**

There being none.

### **PUBLIC HEARINGS**

Janvrin opened the Public Hearings at 7:15PM.

**PROPOSED AMENDMENTS TO THE TOWN'S SUBDIVISION AND SITE PLAN REVIEW REGULATIONS THAT WOULD GOVERN DEVELOPMENT IN THE NEW SMITHTOWN ZONING DISTRICT THAT IS SITUATED IN THE VICINITY OF TOWN HALL,** continued from July 3, 2012, July 17, 2012; August 7, 2012; August 21, 2012;

Janvrin continued the discussion of the Smithtown Site Plan Regulations to October 16, 2012 at 6:30PM in Seabrook Town Hall.

**CONDOMINIUM REGULATION CONSIDERATIONS,** continued from June 19, 2012, July 17, 2012, August 7, 2012, August 21, 2012;



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Tom Morgan, Town Planner

Janvrin asked Morgan to lead this discussion. Morgan recalled that a few months ago the Board was asked to look at a condominium site where the owner wanted to move one of the house locations from that on the approved siteplan. At the Board's request Morgan had consulted with the Planning Board Counsel. Khan thought the location was on or near Railroad Avenue. Janvrin recalled the question was whether to return to the Planning Board for an amended site plan approval and condominium documents. Morgan said one question was whether the Seabrook Condominium regulation was complete, or was something missing. Counsel said they are complete. Another question was whether it was permissible to permit condominium approval for vacant land. This is called convertible land which, if not developed, becomes common area. Garand commented that this is the condition of a Pine Street property. Morgan said the board did not have to do anything because the state law says after 5 years the convertible land becomes common area.

Morgan's next question to Counsel was what if the condominium documents are changed subsequent to Planning Board approval. Counsel's advice was that to think of the elements of the condominium plan that the Board would not want changed without its knowledge. Janvrin suggested water, sewer, and utilities. Counsel said to amend the condominium regulations to say those types of items cannot be changed without coming back to the Planning Board. Garand said if there were a commercial condominium development then the common parking would be one of those items. Chase asked if this were about changing the location of the utilities or not installing them. Garand thought it would be both, because if a condominium declaration designated certain areas to be open or for utilities any changes should be addressed. Chase's example was if a plan designated a certain area for utilities, and they found ledge, they would have to return to the Planning Board. Morgan thought that a good example, and said what if someone switches something in the field. He reiterated Counsel's advice to rewrite the regulations to be clear when people have to return to the Board. Janvrin asked if this was similar to having an as-built showing changes.

Morgan said if the Board felt Counsel's advice should be implemented, he could write up the amendments to the site plan condominium regulations. Janvrin asked for specifics. Garand said to include equal access to shared areas, access/egress, and utilities. He asked if owners needed to return to the Board if there were no garage on the original plans. Janvrin asked about a shed. Garand said that a shed was a mobile structure. Under 100 square feet would not be a big concern, but would adding a one-car garage need to come back to the Board; would both property owners have to sign the building permit. Chase asked that as long as the structure was built to building department regulations, why would it have to come back to the Board. Garand asked if one condo owner wanted to build a deck or garage, would it take the signature of the other condominium owner(s). The Town would view it as one large parcel with two homes on it. For a two unit condominium, there is no association, only equal areas. If one owner builds a garage in their limited common area, would it require both property owners to sign the application because it would be a permanent structure on the property. Morgan said it would. Wood agreed because both owners are being impacted.

Wood said what if there were an approval for two units, one in the front and one in the back, and then it was decided to put both in the middle of the lot. she felt they should return to the Board as they would be impacting the abutters. When people come to the Board, whether for a condominium or private home, all the abutters are there. What if a few months later they decide to make a change. If they don't follow the approved plan, how is that fair to the abutters who thought they would have a building at each end of the property and suddenly learn both



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buildings will be elsewhere – perhaps next to an abutter's house. Janvrin recalled that prior discussion had been about why the Board would want to be concerned with this. He said that Wood's view made the point. The Board is the only forum that that abutter would have. Garand noted that condominiums are governed by state law. He wanted to know if both owners would have to sign a permit application, and actually have plans recorded with the Registry of Deeds showing that there was now another structure on the condominium land. Wood said if anyone puts a structure on their property, why wouldn't they have to come back to the Planning Board. Garand said if a property owner has two homes on a lot he can do what he wants. Wood said it shouldn't matter if it were a condominium or not. To put a structure on the property, someone had to go through the proper procedures. Garand asked what happens when two condominium owners do not like each other and one holds the other up.

Morgan suggested that he write up an amendment to the regulations and send it to counsel for review before having a discussion at the Board. Janvrin asked what criteria would be used. Morgan said: parking allocation, utilities, impact on shared areas, access/egress, and moving the location. Garand asked for clarification as to whether both owners needed to sign for a permit. Chase asked why the structure had to be called out on the plan. Garand said that is done with convertible land, and they return to show the location when ready to build. Chase asked if a condominium plan could come to the Board with showing the intended location of the structures. Morgan said according to counsel, when a house is to be built they have to come back to the Planning Board. Chase noted he was from the private sector and had been told by the engineers that they never could do that; that they have to have a house plan and a floor plan. Morgan said that is why he asked the Planning board Attorney, who said they can show vacant land but have to return to the Board to build a structure. Garand noted there was a property on Pine Street that still had convertible land. Janvrin asked if that would last for five years and then sunset if nothing had been done. Morgan confirmed this. Khan said to add in the drainage system. Kravitz said common area should also be added.

**Janvrin continued the condominium discussion to October 16, 2012 at 6:30 PM in Seabrook Town Hall.** Morgan said this item would be for discussion prior to a public notice. Morgan reported that in a telephone call DDR indicated it was interested in becoming a condominium. Janvrin asked if the Planning Board would have to approve this. Morgan said it would. Garand said this would raise parking, trucking, hours of operation, and other allocation issues. Morgan said given recent parking issues this needed close attention. Janvrin thought this would open a shared parking concept. Morgan noted that national chains typically demand a certain number of spaces. Khan said it would be best to have them bring the proposal to the Board before discussing the particulars. Morgan agreed, saying that the Board would want to see a parking allocation plan.

### **STREETLIGHTS**

**Khan said he'd gotten calls asking why there were not light poles in darkened areas; people were concerned about potential accidents.** Morgan asked if this came from people in the Beckman Woods area because this had also been troubling him. Khan said there were no light poles and the developer had put utilities underground. Morgan said there had been one excuse after another. Janvrin had talked with someone who was a member of the Streetlight Committee. He understood that they had not met regularly in more than ten years, and do not perform the duty of finding the street lights that need to be removed. At least six lights in the south end are not lit, although the town pays for them. This is a Selectmen's issue.



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Khan wanted to know how to make a developer install lights and pay for it. The town now pays for each light that is lit every night; it costs a lot of taxpayer money. He asked if there could be rules or regulations that say the developer pays the cost for a certain time. Garand did not think anything could be done about past developments, and wondered what had been required on the Beckman Woods siteplan. Morgan said the developer owes the town some streetlights; the last excuse was he was waiting for the Streetlight Committee to convene. Garand was also concerned about a back area that had a six foot drop with no guardrail. Morgan said that either he or Garand should call the developer, Green & Company; Morgan will make the call. Khan said that because the Streetlight Committee had not met, for the last couple of years the Police Department was recommending where streetlights should be positioned. Morgan said this was on the Beckman woods plan, and asked how the Board wanted him to respond in re the Streetlight Committee. Khan said to refer him to the Police Department. Garand thought that the Department of Public Works Manager should also have input because they look at safety for the plow trucks turning around.

Khan will ask the Board of Selectmen if a rule can be made as to who should take care of this item now that there is no functioning committee, and suggested that Garand, the Police and the DPW might make the recommendations. Morgan said Green's excuse was that he had had been to Town Hall and was told that no committee meeting was scheduled. Kravitz confirmed that Green had done this. Chase wanted to clarify that when the town accepts the road, it accepts the streetlights i.e. they become the property of the Town. Morgan said that was correct. Chase thought that Khan wanted developers to pay the cost in future years, and noted that he had paid the cost for a year and a half for his subdivision. Khan asked how the town could take care of lights if there are no poles. Chase said they should be put in before the road is accepted. Garand agreed, although it was more costly to do this when the utilities are already underground. Chase asked if that road had been accepted; It had not. Morgan's issue was in Pineo Farms. Wood said when she had been at Beckman Woods on a foggy night, it was very disconcerting. Garand asked how the developer could be held to account if there was no longer security. Kravitz informed that a sizable security remains for Beckman Woods.

### **CONSIDERATION OF RECORDING SITE-PLANS**, continued from Tom Morgan, Town Planner

Janvrin asked Morgan to speak to this topic. Morgan explained there are differing opinions on recording site plans. The Planning Board Attorney likes the idea. Garand also likes this idea. Morgan differs because for the last 5-10 years the Rockingham County Registry of Deeds had been very negative about recording siteplans, and make it difficult. He said that most of the local engineers and surveyors design around Registry standards i.e. they make lot line adjustments and subdivisions recordable, and sometimes don't even try with commercial or industrial siteplans. Morgan believed that from a practical matter there would be a lot of paperwork and hassle, and a lot of trips to Brentwood that the Secretary will make to the Registry only to return because a plan was not accepted.

Wood asked about the advantage of recording siteplans. Garand said there would be a reference number in the deed and book and page numbers, if someone were buying the property. It is a record that cannot be changed. Wood thought this would be pretty valuable. amended. Morgan agreed, but held the opinion that the hassle in getting things recorded outweighs the advantages. Garand said it would also be an incentive to the engineers to make a better plan. Janvrin asked if the recording was just in re as-builts. Morgan said it would be the



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site plan and the as-built. He thought the Registry would make it equally difficult, and that all they want to record are subdivisions and lot-line adjustments. Garand said anything can be recorded as long as it meets the standards. Janvrin noted that the Board is now recording the Operations and Maintenance requirements. Kravitz said that this is now being put on a mylar for recording, which she thought was a much cleaner way.

Kravitz asked the Chair if she might comment. Kravitz said that in the past Attorney Malcolm McNeill had strenuously recommended the wisdom in siteplan recording. For Beckman Woods, the Planning Board recorded 9 mylars, and the surveyor made the mylar conform to the Registry requirements. In fact, even with subdivisions and lot-lines, often the engineer will go to the Registry with the paper plan to get a pre-approval. The Registry will happily review the plansheet(s) and point out items likely to cause a problem, such as areas with shading, or lines over words. They look to see if a plansheet has the Planning Board Chair's signature and fits the standards which are the same as for subdivisions. The engineers (and surveyors) know how to do this. In the case of Beckman Woods the surveyor, Henry Boyd Jr, at the request of the developer, created mylars for 9 of approximately 35 siteplan pages that were recorded. The process was the same as with any other recording.

Janvrin asked if anything other than the Stormwater Operations and Maintenance requirements were recorded for siteplans. He asked if there were a reference to the siteplan in the deed. Kravitz said if the town is involved, the deed will have an empty space for the recording number of the siteplan. This occurred recently with the NextEra filings where one deed was to the Town and one to NextEra. These were filed at the same time as the mylar. Janvrin asked if the size of a development would be a trigger for filing. Garand said once recording is started, they all should be done the same way. Janvrin's example was to build a Mom and Pop store on Route 1 he would have the expense for the engineer, and the added expense to record the mylar. Garand asked for the cost to record a mylar page. Kravitz said \$26 at the Registry plus \$25 for the administrative fee. Morgan said the extra expense is that the engineer would have to put in extra time to make the plansheet recordable; this will be passed on to the client. Janvrin commented that some of the engineers who come before the Board do not get a siteplan correct. Garand said if they have to pay attention to lines not crossing etc, there would be a much neater, legible plan, that is easier to follow; one or two pages might have to be added to put some layers on another page. It will be much easier and better for the town. Janvrin said, for example, they might have to separate landscaping from signage.

Janvrin said the Board often will approve a case subject to a plan meeting the Town Planner's approval. This might mean inserting the conditions of approval. He asked if Morgan would be comfortable reviewing a plan for the required Registry criteria. Morgan said given his experience with the Registry he was not comfortable. For example, he might not see a tiny line-over in a corner that the Registry will pick up. Kravitz reiterated that of late if someone is bringing in a mylar, it is suggested they have the engineer take the pages to the Registry for a first look. She noted that Jones & Beach and Henry Boyd Jr do this routinely; even the West Marine engineer did this. Kravitz said that the mylars were coming in together with the application submission. That does not make sense because the Board makes changes. This is one item that should be clarified to avoid getting unapproved mylar pages that then have to be replaced. There really is a way to keep the cost down by the engineer taking it to the Registry in advance; the cost is the mileage. Kravitz commented that the last time she brought a mylar to the Registry they asked if this was for a pre-look or for the actual recording. She felt the engineers could make it easy on themselves.



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Chase thought that when dealing with the big developer this wouldn't affect their budget. But for the individual, a 2-lot subdivision this would be an expensive ordeal. He thought the engineer would charge about \$200 to go to the Registry for the review and then bring it back to the Planning Board for recording. Janvrin recalled a conversation with a Route 1 property owner who said he could not meet the sidewalk regulation. The Board did not grant a waiver, but a compromise was reached. He asked if recording site plans were in the regulations, could the Board waive them. Morgan said it could be waived, but first the policy needed to be decided. Janvrin thought there should be a trigger point, for example the lot size, or less than a certain amount of commercial space. Morgan said whatever the Board decided should be written down. Presently the policy is to record subdivisions and lot-line adjustments, and some people are suggesting recording siteplans as well.

Khan asked if Morgan could bring recommendations for the October 16 meeting. Morgan said he could, but had already given his recommendation. Janvrin recalled a discussion on this topic with Boyd. Morgan recalled that Boyd was resistant because he is aware of the extra work involved. Kravitz thought there was a provision in the regulations allowing the Board to decide to record a siteplan, but it is not clarified or mandated. She called attention to the legislature requiring that conditions of approval be stated on a plan, which means that every plan has to go back to meet that requirement. This is a new requirement, although she was not clear whether this applied to siteplans as well as subdivisions. She felt that there was wisdom in a piece of property of any size having a recorded mylar, with stipulations or easements, picked up in the title search for a sale. Wood listened to the difference of opinion between Morgan and Kravitz and understood the expense issue. Her thinking was that it might be an important thing to do i.e. having a document always registered at the state. Janvrin thought that would not relieve the Planning Board from having the paper records. Wood said a recording is permanent.

Kravitz said when a mylar is submitted the paper copies also come in and are signed at the same time. Paper copies are distributed to departments, and a couple are kept in the case file. They are exactly the same as the mylar. She noted that it is rare for an engineer to come in to research a file unless it is for a big project. They go to the Registry for the deeds. If mylars are recorded, the id number would show up. Morgan said one advantage of recording is that the plan can be viewed on line. Janvrin asked for comments from the Board. Chase asked if the question was whether or not siteplans would be recorded. Morgan said the current policy is not to record siteplans, and someone raised the question as to whether they should be recorded. Chase agreed on recording siteplans, but did not want the engineer to have to check first with the Registry. Kravitz said they did not have to have a pre-look. It's a \$100 risk if a plan is rejected and has to be taken to the Registry again. Further, if she returns from the Registry with a rejected mylar, the problem will go straight to the engineer. Khan wanted Morgan to bring a recommendation to the Board's next meeting. Janvrin asked how many other towns record siteplans. Morgan said not many, just because the Rockingham Registry standards are so onerous.

Garand said there was an advantage to the property owner and to the town. It makes a clear trail and is always on the record. If something happened to the town files and the signed copy were gone, it would still be on the record. He commented that files might be microfiched. Garand said if someone were looking to purchase property, and the owner said they had approval for a 180 seat restaurant, a look at the recorded plan might reveal approval for only 140 seats. The seller could not misrepresent the approval. Recording makes for a more complete record forever; it can't be changed, removed or amended after the fact. Wood said at this point those records were being kept at the Planning Board; recording would be in addition. Garand said it is a safety factor, just as a tape that is sent offsite to Concord. Garand said putting Planning Board files on



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microfiche is part of the plan. Kravitz noted that Planning board files have all kinds of documents, and asked how plans would be incorporated. Garand said smaller paper files are being stored with notations as to the [large size] plans. Kravitz said the plan is the most important thing; Garand agreed. Kravitz commented that when a mylar is filed, the Registry sends a copy to the Assessor's Office. A paper copy will now be given to the Board for inclusion in the case file.

Janvrin asked for comments. Morgan asked what the Board wanted them to do. Janvrin asked if the Board wanted to put this off, record everything, have a trigger point. Wood wanted to have another discussion, although she was leaning toward recording. She wanted input from the rest of the Board. Khan agreed with Chase on recording, but did not want to penalize the small developer or property owner with expense. He agreed there needed to be more discussion. Chase liked the idea of a trigger point, so that it wouldn't apply to very small projects. Morgan asked what kind of threshold was wanted, noting that subdivisions already had to be recorded. Janvrin said square-footage or acreage. Janvrin said this is for commercial siteplans, and thought floor space appropriate. 50,000 or 10,000 square feet were suggested. Janvrin said if there were not a trigger point, the Board could waive its own regulation, provided there were a written justification. Morgan said he would attempt to draft a provision re recording siteplans.

### **RAILTRAIL AGREEMENT** Tom Morgan, Town Planner

Attending: Nuala Leong  
Friends of Seabrook Rail Trail  
Board of Directors

Janvrin explained that he was the Vice President of the Friends organization. The Friends have indirectly been in negotiations with the New Hampshire Department of Transportation, Bureau of Rail and Transit through the Rockingham Planning Commission. Scott Bogle, RPC Senior Transportation Planner, had originally forwarded a draft proposed agreement to the NHDOT, which sent the document to the NH Attorney General. The Attorney General said there were several municipalities with the same purpose; the problem was that the NHDOT did not have boiler plate language for an agreement document. In the meantime, two municipalities have effected agreements; Lebanon, with trail and rail capacity, and Salem with a paved, non-motorized facility much like the Seabrook plan. A lot of the language in the proposed Seabrook agreement comes from those of the other two towns. A year ago the Friends anticipated the agreement would be executed by May of 2012.

Janvrin did not ask the Planning Board to address the statutes or maintenance agreements, but did want to acknowledge that the Rail Trail was consistent with the 2011-2020 Master Plan, and that it was listed in the Capital Improvement Program. He also wanted the draft to be forwarded for review and approval to the Board of Selectmen, and if possible to the Technical Review Committee before it is sent back to the NHDOT. Eventually, the parties will meet and sign the agreement. Khan asked that Leong inform the Board about the Rail Trail activity during the last 18 months. If the Board wanted to act Khan wanted to have the Planning Board attorney review the document first to see that it is the right agreement for the town. Janvrin felt that because the is language requiring action on the part of the Town, the town council would be the appropriate person for comments.

Janvrin asked Leong to inform the Board of the current status. Leong said the was a limited window of opportunity to take advantage of an offer by a group called the Iron Horse, that builds



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trains for Salem, New Hampshire, in Massachusetts, and all over the country. Iron Horse walked the trail and was willing to build the trail subject to the State [[[buying? Selling?] the property. A key component would be getting the management agreement signed. If the draft agreement in front of the board were signed it would move that process forward. Leong said that as a runner, there is no place in Seabrook to go out for a run. If the trail is built, that would be a huge benefit for families to enjoy the outdoors. Leong said the Friends is a small group that had accomplished a lot. They had cleaned the trail, and raised seed money for a grant to get matching funding. She hoped the town would consider the agreement and send it back to the State with any suggestions to keep the process alive and moving forward.

Khan asked for Morgan's comments. Morgan thought that Janvrin had outlined an appropriate motion. Janvrin reiterated the need to state that the Rail Trail I consistent with the Master Plan and the CIP. He also wanted the Technical Review Committee to provide review it and make recommendations to the Board of Selectmen. Morgan recalled Khan's desire to have the Town Council review the document. Janvrin asked if both the attorney for the Planning Board and the town should review the document. Morgan said the legal review should be by the town council. Khan said that the normal procedure would be for the Town Manager to automatically send a document to the Town Council. Khan said the proper procedure should be for the Planning Board to approve the document subject to the town council's approval, so as to minimize any delay in moving the process on. Chase asked if the Selectmen had to approve the agreement. Khan said that the BOS action would come at some point, and that there should be signature lines for the Selectmen. Everything would depend on the town council's review. Janvrin said the signature page now included a line for the Planning Board as well as for the three Selectmen, the NHDOT Commissioner, the Attorney General's office, and the Governor. Khan said to include the Town Manager's signature as well for administrative procedures.

Kravitz recalled that in similar motions in the past the language was to recommend to the Board of Selectmen that they proceed with this agreement subject to the items specified during this discussion, including the approval of the Town Council, and asked if that should be the structure of the motion. Khan and Chase agreed. Chase asked if the agreement would go to the Selectmen next. Janvrin wanted it to first go the TRC for comments. Khan was concerned about Leong's timeline. Kravitz noted that the TRC's next meeting would be in three weeks. Janvrin asked if it could go out to TRC members requesting their comments. Kravitz wondered if the request should come from the Town Manager. Wood said this is something that the department heads would have to maintain. Janvrin said there were provisions relating to enforcement of rules that the police ought to be privy to, and in re emergency vehicles. There were items that the Parks Department and the Department of Public Works should be aware of. Kravitz could send the document to the TRC Members and ask for their comments, which would be a quicker way. Janvrin was hoping for comments in time for the first BOS meeting in October.

Khan wanted the document to go to the Town Manager so that it could be sent to the Town Council for comments and then bring it to the BOS. Khan explained that the Selectmen would not do anything until the review by Town Council. Khan said the letter should indicate his recommendation that it go to the Town Council for review and have comments as timely as possible.



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<b>MOTION:</b>	<b>Khan</b>	<b>that the Planning Board forward the draft Rail Trail Agreement presented to the Board on September 18, 2012 to the Interim Town Manager for his review and for forwarding the document to the Town Council for comments, so that action can be taken by the Board of Selectmen.</b>
<b>SECOND:</b>	<b>Chase</b>	<b>Approved: In favor: Sweeney, Frazee, Wood, Chase, Khan, Abstained: Janvrin</b>

### **CURRENT TOWN MAP**

Tom Morgan, Town Planner

Morgan displayed the official Seabrook Map produced ten years ago, commenting that the technology and graphics was now quite a bit different. For some time the town has struggled to implement a new technology – Geographical Information Systems (GIS) – which provides a large data base underneath the map. The data can be manipulated in sophisticated ways. Eventually several departments in the town will become fluent in this technology; that is where the town is headed. Morgan said the Planning Board’s responsibility is to keep the zoning map current. The current objective is to switch from the old technology to the new without making any changes of substances at this time. When that is achieved, he believed that a majority of the Board agreed that there are certain parts of the zoning map that need to be adjusted or approved. This will involve a long discussion that will culminate in sending an updated map to the Town Meeting for adoption.

Morgan wanted the Board to come to some conclusion at this meeting as to whether the upgraded map that the Board was looking at was substantially the same as the original map. This would be the first Phase of the mapping project. . He emphasized that the Town must have an official zoning map as an important legal record with respect to property rights. When the Board takes a vote that this (new) version is the official town map, it can be placed on file with the Town Clerk as the law requires. Garand asked if River Street had been corrected from the last draft. Morgan said it was improved. Additionally, Garand said that some of the Beach area near the Yankee Fisherman’s Coop was not addressed as conservation land on this map. He noted that this had been repeatedly pointed out but had never been addressed. Morgan explained that his objective at this meeting was to have everyone comfortable that the new rendering is pretty much the same as the old map.

Morgan said that the second phase of the mapping project would focus on issues like why is the pier zoned conservation land; this did not make much sense. The problem is that the Planning Board does not have the legal right to change the map on its own. The Board can vote for a change(s) at a public hearing and then send it to the Town Meeting for voter approval. Tackling the pier at this meeting would be premature. At this meeting Morgan wanted the Planning Board to agree or disagree that the upgraded map was the same as was approved ten years ago, with the changes that had already been approved since then, such as the Smithtown Village Zones, and the reference points along Route 1 and Route 286. Garand said the upgraded map is a much truer, up to date, representation of the current zoning. In Phase 2 the Board could make corrections and deal with desirable adjustments. Morgan emphasized that the map that the town is using does not have important changes that had been already been approved [at Town Meeting] such as the two Smithtown Village zones. Morgan thought that in the unlikely event that someone were to sue the Town of Seabrook, the first thing they would do is call for



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the zoning map. It would not be prudent to hand out a map with the explanations about what is not right.

Chase agreed with Morgan's approach, but asked when the Board would start the second phase of the mapping project, and could it be done in time for the next Town Meeting. Morgan said to avoid confusion, he wanted the Board to agree that the upgrade was a pretty good representation of the current Seabrook zoning map. Janvrin said the upgrade was more current and up to date, especially around Route 1. Garand said the upgrade shows the 500-foot commercial zone along Route 1, the Smithtown Village zones, and the corrected 200-foot area along Route 286. Janvrin thought it was a better rendering of the harbor Commercial area.

Morgan explained that one disadvantage of the old technology was that it wasn't very precise. His goal for Phase 2 is to sharpen the lines. Janvrin asked if the lot lines were shown on the upgrade. Morgan said they were. Janvrin thought that at some point the lot-line boundaries could be followed. Morgan said that Zone 4 – Conservation would be a first priority, eg in re zoning lines that slice through lots. Garand said River Street, the Coop, and Cross Beach areas needed to be corrected. Morgan said if the Board Members were pretty comfortable that the upgrade is a pretty good representation, he hoped for a motion designating it as the official town map that could be placed on file with the Town Clerk. Once that is achieved, he would bring a laptop to the meeting and map out with the Board the appropriate changes going forward. Once the Board approved any new changes, it could send that revision to the Town Meeting. He hoped this would be in time for the March 2013 Town Meeting. Janvrin asked for further comments; there being none.

<b>MOTION:</b>	<b>Wood</b>	<b>to adopt the upgraded Town of Seabrook Zoning Map dated August 2012 presented at the Planning Board September 18, 2012 meeting, as the official town of Seabrook Zoning Map and place it on file with the Town Clerk.</b>
<b>SECOND:</b>	<b>Chase</b>	<b>Approved: Unanimous</b>

Kravitz commented that request for the town map often come from the Assessor's Office as well as from individual requests to the Planning Board. Office. Janvrin asked what the charge would be. Kravitz said that amount and fees in general should be reviewed.

### **PLANNING BOARD - MEMBERSHIP**

Janvrin recalled that Morgan had said that the Board was required to fill a vacancy. He had questions as to whether the statute language said that the seat must be filled, or whether the chair could temporarily appoint someone to the position on a meeting to meeting basis. Janvrin continued this discussion to October 2, 2012.



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### **OTHER BUSINESS**

#### **Safe Routes to School**

Chase reported that the **SRTS committee had applied for a start-up as well as a continuing grant and was hopeful of success.**

#### **Exeter Downtown**

Chase complimented the Town of Exeter for an excellent slide show presentation at the Rockingham Planning Commission of a certain development process in the downtown area. He asked if Kravitz agreed. Kravitz said the new project was called the Swampscott Building, a mixed use residential-retail development right on Water Street that blended in with the existing historical buildings. The first floor had retail stores, with one and two bedroom apartments on the top two floors. Designing this site was very difficult because it is on an incline, but some parking was achieved underneath the building and at the rear of the site. Chase asked about the developer. Kravitz said it was an experienced company from Maine. Khan complimented the Exeter Town Planner, Syliva Von Auloch, who made the presentation. Kravitz said that Von Auloch's approach is to determine what the Town needs and figure out how to get it. Chase said one element of the presentation showed that the parking spaces were not filled, commenting that sometimes regulations over-exceed what happens in real life. Kravitz commented that the expectation was the parking would be shared by store customers during the day, and used by the residents at night. Khan also attended the meeting said the presentation was an eyeopener.

Khan remarked that Seabrook's progress was noteworthy with the Smithtown Village accomplishment and the extensive landscaping ordinance. He remarked that twelve years ago 94 percent of the town's tax revenue came from the power plant; today it is about 50 percent; He thought Seabrook did very well sustaining other development that the Planning Board, the Board of Selectmen and Town leaders brought in. the Town's dependency on one big taxpayer was reduced, and replaced with a lot of other developments. Khan commented that the Town would have to be careful and aggressive in the coming months as energy prices including gasoline were rising, although they are being offset by natural gas prices that are at record lows. This situation had not happened before. Janvrin noted that New Hampshire had energy and planning in the same department.

Janvrin asked for other items, there being none.

Janvrin adjourned the meeting at 8:30 PM.

Respectfully submitted,

Barbara Kravitz, Secretary  
Seabrook Planning Board